

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW GIRL ORDER LLC,

Plaintiff,

-against-

NEW GIRL ORDER LTD., LYST LTD,
DOLLS KILL, INC., ZUMIEZ, INC.,
URBAN OUTFITTERS, INC., MODE SENSE,
INC., and ASOS, plc.,

Defendants.

Index No.: 1:21-cv-05889

**CONSENT JUDGMENT
AND INJUNCTION**

THE PARTIES stipulate to the following:

The Parties

1. New Girl Order LLC (“NGO LLC” or “Plaintiff”) is a limited liability company duly organized and existing under New Jersey law, with its principal place of business located at 14 Silver Street, Bayonne, New Jersey 07002.
2. New Girl Order Ltd. (“NGO LTD”) is a limited company duly organized and existing under the laws of the United Kingdom, with a place of business located at Palladium House 1-4 Argyll Street, London, United Kingdom, W1F 7LD.
3. Dolls Kill, Inc. (“Dolls Kill”) is a corporation duly organized and existing under the laws of Delaware, with a place of business located at 55 Harrison St., Oakland, California 94607.
4. Urban Outfitters, Inc. (“Urban Outfitters”) is a corporation duly organized and existing under the laws of Pennsylvania, with a place of business located at 5000 South Broad Street, Philadelphia, Pennsylvania 19112.

5. Zumiez Inc. (“Zumiez”) is a corporation duly organized and existing under the laws of Washington, with a place of business located at 4001 204th Street SW, Lynnwood, Washington 98036.

Jurisdiction and Venue

6. The Court has subject-matter jurisdiction over the parties’ respective claims and over the parties. Venue is proper in this Court.

Relationship Among the Parties and the Trademarks in Suit

7. NGO LLC is the owner of record of the trademarks below that are registered with the U.S. Patent and Trademark Office (“USPTO”), together the (“NEW GIRL ORDER Marks”):

Mark	Reg. Number	Reg. Date	Goods
NEW GIRL ORDER	6,219,338	December 15, 2020	Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms
NEW GIRL ORDER – NGO	5,018,518	August 9, 2016	Apparel, namely, sweatpants, sweatshirts, t-shirts, dresses, leggings, jackets, tops, bottoms, hats

8. NGO LTD is the owner of record of the following trademark registered with the USPTO:

Mark	Reg. Number	Reg. Date	Goods
NGORDER	6,442,029	August 3, 2021	Beachwear; bikinis; blouses; camisoles; cardigans; coats; dresses; gilets; jackets; jumpers; knitwear, namely, sweaters, dresses, and tops; leggings; nightwear; shirts; shorts; skirts; sweaters; sweatshirts; swimwear; T-shirts; tops as clothing; underwear; vests.

9. NGO LTD’s affiliate FQM Entertainment Ltd. owns European Union and U.K. trademarks and registrations with the European Union Intellectual Property Office and U.K. Intellectual Property Office, respectively, including but not limited to:

Mark	Reg. Number	Reg. Date	Goods
NEW GIRL ORDER	UK00003294064	March 2, 2018	Class 25: Clothing products (full product list not set forth here for brevity).
NEW GIRL ORDER	UK00917926375	July 3, 2018	Class 25: Clothing products (full product list not set forth here for brevity) Class 35: Retail, online retail and wholesale services in connection with the sale of cosmetics, toiletries, perfumery, nail products, make-up, clothing, headgear, footwear, bags, luggage, umbrellas, candles, home fragrances, wallets, purses, fashion accessories, jewellery, imitation jewellery, clocks, watches, watch cases, sunglasses, eyewear, printed publications, books, stationery; the provision of advice and information to customers and potential customers in the selection of in connection with the sale of cosmetics, toiletries, perfumery, nail products, make-up, clothing, headgear, footwear, bags, luggage, umbrellas, candles, home fragrances, wallets, purses, fashion accessories, jewellery, imitation jewellery, clocks, watches, watch cases, sunglasses, eyewear, printed publications, books, stationery; among other services in this Class
NEW GIRL ORDER	EU Trademark 017926375		Class 25: Clothing products (full product list not set forth here for brevity) Class 35: Retail, online retail and wholesale services in connection with the sale of cosmetics, toiletries, perfumery, nail products, make-up, clothing, headgear, footwear, bags, luggage, umbrellas, candles, home fragrances, wallets, purses, fashion accessories, jewellery, imitation jewellery, clocks, watches, watch cases, sunglasses, eyewear, printed publications, books, stationery; the provision of advice and information to customers and potential customers in the selection of in connection with the sale of cosmetics, toiletries, perfumery, nail

			products, make-up, clothing, headgear, footwear, bags, luggage, umbrellas, candles, home fragrances, wallets, purses, fashion accessories, jewellery, imitation jewellery, clocks, watches, watch cases, sunglasses, eyewear, printed publications, books, stationery; among other services in this Class
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In Europe, NGO LTD owns and operates the New Girl Order online retail fashion and clothing business and the website, www.newgirlorder.co.uk, and corresponding social media sites. The foregoing European trademarks and registrations of NEW GIRL ORDER together with NGO LTD's corresponding website and social media sites are referred to collectively in this Consent Judgment as "NGO LTD's European Rights".

10. Plaintiff owns valid and subsisting federal statutory and common law rights in the United States to the NEW GIRL ORDER Marks. NGO LTD and its affiliate own valid and subsisting trademark rights in the European Union and United Kingdom as to the NGO LTD's European Rights.

11. NGO LLC commenced this action on July 8, 2021, by filing a Complaint with the United States District Court of the Southern District of New York against NGO LTD, Dolls Kill Urban Outfitters, and Zumiez ("Defendants").¹ Seeking, (i) a judgment that Plaintiff's NEW GIRL ORDER- NGO and NEW GIRL ORDER trademarks have been and continue to be infringed by Defendants in violation of 15 U.S.C. § 1114(1); (ii) a judgment that Defendants' use of Plaintiff's trademarks constitutes federal unfair competition in violation of 15 U.S.C. § 1125(a); (iii) a judgment that Defendants' use of Plaintiff's trademarks violates New York common law trademark infringement; (iv) permanently enjoining and restraining the Defendants from using the

¹ The other defendants Lyst Ltd., Mode Sense, Inc, and ASOS plc. were previously terminated from this action.

trademarks NEW GIRL ORDER- NGO and NEW GIRL ORDER or any other designation alone or in combination with other words or symbols, as a trademark, trade name component or otherwise, to market, advertise, distribute or identify Defendants' products; (v) directing Defendants to file with the Court and serve on Plaintiff within thirty (30) days after issuance of an injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the injunction; (vi) requiring that Defendants, at their cost, to deliver up and destroy all goods, labels and other material in their possession bearing the infringing designation; (vii) Pursuant to 15 U.S.C. § 1119, enjoining the Director of the United States Patent and Trademark Office from issuing to Defendants any trademark registration for any mark or any combination of words or symbols that would create a likelihood of confusion, mistake or deception with Plaintiff's marks, including, but without limitation, ordering the cancellation of Defendant, New Girl Order, LTD's trademark applications for, NGORDER, NGIRLO and NEWGO; (viii) awarding Plaintiff all damages it sustained as the result of Defendants' acts of infringement and unfair competition, said amount to be trebled, together with prejudgment interest; (ix) awarding to Plaintiff all profits received by Defendants from sales and revenues of any kind made as a result of its willful and intentional infringing actions, said amount to be trebled; (x) awarding Plaintiff its reasonable attorneys' fees and costs; (xi) granting Plaintiff damages for unjust enrichment; (xii) granting Plaintiff injunctive relief pursuant to N.Y. Gen. Bus. Law § 349; (xiii) granting damages, which shall be trebled, together with reasonable attorneys' fees, pursuant to N.Y. Gen. Bus. Law § 349; and (xiv) granting Plaintiff such other and further relief as the Court may deem just.

12. Defendants responded to NGO LLC's Complaint on or about May 5, 2022, by filing an Answer with Affirmative Defenses and Counterclaims. In the Counterclaims, Defendants sought, (i) the entry of judgment on the Complaint and Counterclaims on all claims in favor of

Defendants/Counterclaim Plaintiffs and against Plaintiff/Counterclaim Defendant, with prejudice; (ii) a finding of non-infringement of U.S. Registration Nos. 5,018,518 and 6,219,338 and of no unfair competition, infringement, or deceptive trade practices under state and common law; (iii) a judgment declaring that Defendants/Counterclaim Plaintiffs' use of NGORDER does not infringe or otherwise violate any purported trademark rights owned by Plaintiff/Counterclaim Defendant under federal and state laws; (iv) a judgment declaring that Defendant/Counterclaim Plaintiff New Girl Order Ltd.'s use of its NEW GIRL ORDER mark on products outside of the United States, on its U.K. website, www.newgirlorder.co.uk, and on its corresponding social media sites and pages does not infringe or otherwise violate any purported trademark rights owned by Plaintiff/Counterclaim Defendant under U.S. federal and state laws or under U.S. common law; (v) the cancellation and removal from the Principal Register of Registration Nos. 5,018,518 and 6,219,338; (vi) An award of Counterclaim Plaintiffs' actual damages pursuant; (vii) an award to Defendants/Counterclaim Plaintiffs of their costs and expenses, including attorneys' fees; and (viii) such other relief as this Court may deem just and proper.

13. NGO LLC responded to Defendants' Counterclaims with an Answer to Counterclaims with affirmative defenses on or about May 23, 2022.

14. In an effort to avoid further expenses, proceedings, arbitration, or litigation, Plaintiff and Defendants have entered into a Settlement Agreement in full and complete settlement of all known disputes between Plaintiff and Defendants. This Consent Judgment is entered into by the parties for the purpose of settlement and is without admission by Plaintiff or Defendants as to liability or any of the allegations of the Complaint in this action, or as to any matters arising out of the Complaint. The Court makes no finding of fact or conclusion of law concerning any of the allegations or claims asserted by Plaintiff in this proceeding. However, nothing in this paragraph

shall be construed as diminishing or otherwise affecting Defendants' and NGO LLC's obligations and responsibilities under this Consent Judgment.

15. As an overall part of the parties' settlement effectuated by the entry of this Consent Judgment, Defendants do not and will not contest the validity, enforceability, and NGO LLC's rightful ownership of the NEW GIRL ORDER and NEW GIRL ORDER – NGO marks in the United States, including the registrations therefor, which are registered with the USPTO. In turn, NGO LLC does not and will not contest or challenge the validity, enforceability, and ownership of NGO LTD's European Rights.

16. Upon the entry of this Consent Judgment, all claims brought by the parties as reflected in their pleadings filed with this Court are withdrawn and dismissed with prejudice, without any party admitting liability and with the parties bearing their own costs and counsel fees.

17. This Consent Judgment will be entered under Fed. R. Civ. P 65 and will constitute the final judgment as to all claims in this matter for all purposes.

18. All parties waive any and all rights to appeal from the entry of this Consent Judgment.

19. The parties agree that the restrictions placed on NGO LTD in this Consent Judgment have effect only within the United States.

BASED UPON THE PARTIES' STIPULATION AND CONSENT, IT IS HEREBY:

A. ORDERED that Defendant NGO LTD, together with its officers, agents, servants, employees, representatives, and assigns, and all other persons, firms, or companies in active concert or participation with Defendant are, only within the United States, permanently enjoined and restrained from directly or indirectly:

- a. manufacturing, distributing, selling, marketing, advertising, promoting, or authorizing any third party to manufacture, distribute, sell, market, advertise, or promote any goods or services bearing the NEW GIRL ORDER Marks or any other mark that is a counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of Plaintiff's NEW GIRL ORDER marks;
- b. engaging in any activity that infringes Plaintiff's rights in its NEW GIRL ORDER marks;
- c. engaging in any activity constituting unfair competition with Plaintiff;
- d. making or displaying any statement, representation, or depiction that is likely to lead the public or the trade to believe that (i) Defendant NGO LTD's goods or services are in any manner approved, endorsed, licensed, sponsored, authorized, or franchised by or associated, affiliated, or otherwise connected with Plaintiff or (ii) Plaintiff's goods or services are in any manner approved, endorsed, licensed, sponsored, authorized, or franchised by or associated, affiliated, or otherwise connected with Defendant NGO LTD;
- e. using or authorizing any third party to use any false description, false representation, or false designation of origin, or any marks, names, words, symbols, devices, or trade dress that falsely associate such business, goods, and/or services with Plaintiff or tend to do so;
- f. registering or applying to register any trademark, service mark, domain name, trade name, or other source identifier or symbol of origin consisting of or incorporating the mark NEW GIRL ORDER, NGORDER, or any other mark that infringes or is

likely to be confused with Plaintiff's NEW GIRL ORDER Marks, or any goods or services of Plaintiff, or Plaintiff as their source;

- g. aiding, assisting, or abetting any other individual or entity in doing any act prohibited by paragraph (a) through paragraph (f); and
- h. for purposes of clarification, NGO LTD's continued use of NGO's European Rights, including, but not limited to, the continued operation of its European business, website, and social media sites, which feature the NEW GIRL ORDER trademark and fashion brand and are viewable and accessible by U.S. consumers and internet users, are excluded from this Consent Judgment, are not, and will not constitute a violation of this Consent Judgment

B. ORDERED that, NGO LTD will pay NGO LLC two hundred thousand dollars (\$200,000) (the "Settlement Payment") made payable to NGO LLC. One hundred thousand dollars (\$100,000) will be due two (2) business days after the execution of the Settlement Agreement by all Parties, or on July 26, 2023, whichever is later. The remaining one hundred thousand dollars (\$100,000) will be due in 12 monthly installments to NGO LLC as set forth in the table below (the "Installment Payments"):

	Installment Date	Installment Amount
1	August 1, 2023	\$8,333.33
2	September 1, 2023	\$8,333.33
3	October 2, 2023	\$8,333.33
4	November 1, 2023	\$8,333.33
5	December 1, 2023	\$8,333.33
6	January 2, 2024	\$8,333.33

7	February 1, 2024	\$8,333.33
8	March 1, 2024	\$8,333.33
9	April 1, 2024	\$8,333.33
10	May 1, 2024	\$8,333.33
11	June 3, 2024	\$8,333.33
12	July 2, 2024	\$8,333.37

C. ORDERED that each of the Settlement Payment and the Installment Payments must be delivered to NGO LLC's attorneys, Falcon Rappaport & Berkman LLP, 265 Sunrise Highway, Suite 50, Rockville Centre, New York 11570. In the event an Installment Payment is not received by NGO LLC through its attorneys Falcon Rappaport & Berkman LLP on the Installment Date, statutory interest of 9% will begin to run as of the date of breach. If NGO LTD is in arrears on more than one installment, then any remaining balance shall accelerate and become due and payable by NGO LTD immediately, together with all unpaid interest.

D. ORDERED that, notwithstanding the terms of the injunction set forth in Paragraph A(a)-(h) above, Defendants and NGO LTD's third party customers, resellers and distributors may distribute, sell, market, advertise, and promote ("Sell-Down") in the United States goods manufactured as of the date the Settlement Agreement is fully executed and bearing the NEW GIRL ORDER, NEW GIRL ORDER-NGO, and NGORDER marks for 12 months from the execution of the Settlement Agreement or August 1, 2024 (whichever date is earlier) ("Sell-Down Period"). Nothing herein shall prohibit in any way NGO LTD from engaging in and continuing to engage in any activities related to the NEW GIRL ORDER, NEW GIRL ORDER-NGO, and NGORDER marks outside the United States during the Sell-Down Period and following its expiration, including but not limited to continued use of its NEW GIRL ORDER mark on products

sold outside of the United States, on its European and U.K. website, www.newgirlorder.co.uk, and on its corresponding social media sites and pages. That NGO LTD's European and U.K. websites and social media sites are viewable and accessible by anyone online, including consumers in the U.S., is not a violation of the Consent Judgment.

E. ORDERED that, on or before August 1, 2024, NGO LTD agrees to file a surrender of registration for cancellation form with the USPTO for the NGORDER trademark (U.S. Reg. No. 6,442,029, the "Registration"), or to take such other appropriate action so as to ensure the cancellation of the Registration. If NGO LTD fails to take appropriate action so as to ensure the cancellation of the Registration, then this Court retains jurisdiction to order the cancellation of the Registration at that time.

F. ORDERED that if, after the entry of this Consent Judgment, NGO LLC abandons all rights in the NEW GIRL ORDER Marks" under U.S. trademark law, then the foregoing restrictions in (a) through paragraph (g) of this Consent Judgment shall cease to have effect, and NGO LLC may, at such time or after, seek and obtain a subsequent order from this Court ending such restrictions.

G. ORDERED that the Court shall retain jurisdiction over the parties and this matter to enforce the terms of this Consent Judgment and Injunction.

H. ORDERED that the injunction shall remain in full force and effect unless and until modified by order of this court.

So Stipulated and Agreed,

FALCON RAPPAPORT & BERKMAN LLP

/s/ Moish Peltz

By: Moish Peltz, Esq.
Attorneys for Plaintiff
265 Sunrise Highway, Suite 50
Rockville Centre, New York 11570
Dated: 7/26/2023

So Stipulated and Agreed,

FITCH EVEN TABIN & FLANNERY LLP

/s/ Alisa Simmons

By: Alisa Simmons, Esq.
Attorneys for Defendants
120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603
Dated: 7/26/2023

So Stipulated and Agreed,

SPIRO HARRISON & NELSON LLC

/s/ Thomas Kenny

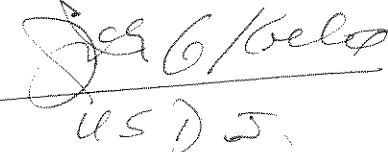
By: Thomas Kenny, Esq.
Attorneys for Defendants
363 Bloomfield Avenue, Suite 2C
Montclair, New Jersey 07042
Dated: 7/26/2023

IT IS SO ORDERED, this 28 day of July, 2023



Hon. John G. Koeltl
United States District Judge

*The Clerk is directed to enter this
judgment and to close this case.
So ordered*

7/28/23 

U.S.D.J.